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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8056/2017**

DIL JIT SINGH AHLUWALIA, ADV. Petitioner

Through: Mr.Amit Sibal, Sr.Advocate with
Mr.Anubhav Mehrotra, Mr.Vinay
Tripathi, Mr.Rajesh Gupta and Mr.
Shrut Raj, Advocates.

Versus

NDMC AND ANR.Respondents

Through: Mr.Anil Grover, Standing Counsel
with Mr.Yoginder Handa, Mr.Jitender
Kr.Tripathi, ASC, Ms.Kanika Singh,
ASC, Mr.Y.V.V.J.Rajshekhear and
Mr.Pooja Kalra, Advocates for
NDMC/R-1.
Mr.A.S.Chandiok, Sr. Advocate with
Ms.Deepti Arya, Ms.Anshu Kapoor,
Ms.Sweta Kakkad, Ms.Shruti Sharma
and Mr.Anukrit Gupta, Advocates for
R-2.

+ **W.P.(C) 8064/2017**

SAAB INDIA TECHNOLOGIES P. LTD. AND ANR.

..... Petitioners

Through: Mr.Amit Sibal, Sr.Advocate with
Mr.Anubhav Mehrotra, Mr.Vinay
Tripathi, Mr.Rajesh Gupta and Mr.
Shrut Raj, Advocates.

Versus

NDMC AND ANR.Respondents

Through: Mr.Anil Grover, Standing Counsel
with Mr.Yoginder Handa, Mr.Jitender
Kr.Tripathi, ASC, Ms.Kanika Singh,
ASC, Mr.Y.V.V.J.Rajshekhear and



Mr.Pooja Kalra, Advocates for NDMC/R-1.

Mr.A.S.Chandiok, Sr. Advocate with Ms.Deepti Arya, Ms.Anshu Kapoor, Ms.Sweta Kakkad, Ms.Shruti Sharma and Mr.Anukrit Gupta, Advocates for R-2.

+ W.P.(C) 8067/2017

RELIANCE INDUSTRIES LTD AND ORS.

..... Petitioners

Through: Mr.Amit Sibal, Sr.Advocate with Mr.Anubhav Mehrotra, Mr.Vinay Tripathi, Mr.Rajesh Gupta and Mr. Shrut Raj, Advocates.

Versus

NDMC AND ANR.

.....Respondents

Through: Mr.Anil Grover, Standing Counsel with Mr.Yoginder Handa, Mr.Jitender Kr.Tripathi, ASC, Ms.Kanika Singh, ASC, Mr.Y.V.V.J.Rajshekhar and Mr.Pooja Kalra, Advocates for NDMC/R-1.
Mr.A.S.Chandiok, Sr. Advocate with Ms.Deepti Arya, Ms.Anshu Kapoor, Ms.Sweta Kakkad, Ms.Shruti Sharma and Mr.Anukrit Gupta, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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11.09.2017

C.M.No.33183/2017 (exemption) in W.P.(C) 8064/2017

C.M.No.33197/2017 (exemption) in W.P.(C) 8067/2017

1 Exemption is allowed subject to just exceptions. Applications



disposed of.

C.M. No.33159/2017 (for stay) in W.P.(C) 8056/2017

C.M.No.33182/2017 (for stay) in W.P.(C) 8064/2017

C.M.No.33196/2017 (for stay) in W.P.(C) 8067/2017

2 These are three urgent petitions which have listed before this Court. There are 27 petitioners. They are aggrieved by the letter dated 09.9.2017 issued by respondent no.1/New Delhi Municipal Council vide which properties of the said petitioners have been sealed. Contention is that this letter has not been addressed to any of the aforementioned petitioners; this letter has been addressed to the Chairperson and Managing Director of C.J.International Hotels Ltd. (respondent no.2). Petitioners are sub-licensees of respondent no.2 and this fact was well known to respondent no.1. Respondent no.1, however, chose to pass an order of sealing of the properties of the petitioners behind their back without giving any notice to them. This order is illegal. Learned senior counsel for the petitioners has in fact placed on record a copy of notice issued by respondent no.1 to one such petitioner. This is to substantiate and to advance a submission that respondent no.1 was well aware of the sub-licence created in favour of the petitioners. It is submitted that the petitioners have an independent contract with respondent no.2; they have made a one time payment to respondent no.2; what they are paying at present is maintenance charges for maintaining the aforementioned corporate tower. It is submitted that the question of payment of licence fee vis-a-vis respondent no.1 and respondent no.2 is pending before a Single judge of this Court in CS(OS) 610/2000 and an interim order dated



18.5.2001 is enuring in favour of respondent no.2 wherein the physical possession of respondent no.2 cannot be disturbed. On 08.9.2017 in I.A. No.8454/2015 the contention of respondent no.1 was noted which was that dehors the interim order dated 18.5.2001 right of respondent no.1 to take recourse to proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 was not precluded. It is pointed out that the impugned letter (09.9.2017) is not an order passed under the said Act but it appears to have been passed on the strength of provisions of Section 333 of the New Delhi Municipal Council Act. Thus the submission made by the respondent no.1 before the Single Judge in CS(OS) 610/2000 was a wrong submission. Attention has also been drawn to para 8 of the aforementioned order.

3 Respondent no.1 has put in appearance. He admits that the aforementioned petitioners had not been given individual notices prior to the communication dated 09.9.2017; submission is that respondent no.1 only recognizes respondent no.2 as his licensee and respondent no.2 had no legal authority to sub-licence this corporate tower in favour of the petitioners. Such a sub-licence, if any, is illegal and without his consent. It is pointed out that the interim order dated 18.5.2001 does not wash away the right of respondent no.1 to have issued the communication dated 09.9.2017 and this has also been appreciated by Single Judge while passing order dated 08.9.2017 in I.A.no.8454/2017. Respondent no.2 is enjoying the property through the petitioners without clearing the license fee of respondent no.1 which runs into huge crores.



4 On behalf of respondent no.2 learned senior counsel points out that an independent sub-licence has been created by respondent no.2 in favour of the petitioners and this is in accordance with the permission which had been granted by respondent no.1 to create this corporate tower; this is also in line with the terms and conditions of licence deed (14.7.1982) inter se respondent no.1 and respondent no.2.

5 Noting these submissions and counter submissions what can really be culled out is that the petitioners before this Court have not been given a hearing before the impact of the adverse order dated 09.9.2017 had been passed vide which their properties have been sealed. Admittedly, this was without any show cause notice to the said parties. No opportunity of hearing has been granted to any of them. The principles of natural justice appear to have been violated. This Court is prima facie of the view that this order cannot be continued. A valuable right of the petitioners has been affected without them giving an opportunity to explain or answer the contents of the communication dated 0.9.92017. Accordingly, the aforementioned properties of the petitioners which had been sealed on 09.9.2017 (Saturday) are directed to be de-sealed forthwith. Needless to state that the essential requirements i.e. the electricity and water connections shall also be restored in the said properties forthwith.

6 This Court has been informed that apart from the 27 petitioners (before this Court) there are other persons who are in occupation of this tower. The total occupation was of 90 persons. 63 persons have not approached this Court. Learned counsel for respondent no.1 fairly



concedes that none of the aforementioned occupants had been given a show cause notice. Accordingly, this order will enure for the benefit of all the occupants who have been adversely impacted by the order dated 09.9.2017 and to whom admittedly notice to show cause has not been given.

7 At this stage, learned counsel for respondent no.1 points out that the licence fee which is being paid by the sub-licensees to respondent no.2 should be paid directly to respondent no.1 in order that their arrears can be cleared. On this count learned counsel for petitioners under instructions submits that they have already made one time whole payment to respondent no.2 and what they are currently paying is only monthly maintenance charges. This submission shall be considered in the main petition.

8 Meanwhile without prejudice to the rights and contentions of the respective parties it is open to respondent no.1 to take appropriate action and issue a notice to each of the petitioners (adversely affected by the orders) and thereafter take proceedings in accordance with law.

9 Applications disposed of in the above terms.

10 Order dasti under signatures of the Court Master.

W.P.(C) 8056/2017, W.P.(C) 8064/2017 and W.P.(C) 8067/2017

11 Counter affidavit be filed by respondents in four weeks with advance copy to the petitioners who may rejoiner before next date.

12 List on 09.11.2017.

INDERMEET KAUR, J

SEPTEMBER 11, 2017/ndn